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# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-220000.2 DATE: November 21, 1985  
MATTER OF: Swager Communications, Inc.

## DIGEST:

1. Protest that consists primarily of a series of questions about the conduct of the procurement which contain no specific allegations of improper conduct by the agency does not state any adequate legal basis for protest.
2. To the extent that a protest letter can be read as raising specific bases for protest, the issues raised are untimely, as the protest was not filed within 10 working days after the bases for protest were known.

Swager Communications, Inc. protests the Agency for International Development's (AID) contract award to Harris Corporation under request for proposals No. 85-R-0669-0134. The procurement was conducted on a brand name or equal basis for broadcasting equipment and related services for the Liberian Rural Communications Network. We dismiss the protest.

Swager primarily raises a series of questions concerning various aspects of the procurement, in which Swager was a competitor. These questions generally concern the agency's decision to cancel a prior solicitation for the equipment, the agency's request for a second round of best and final offers under the current solicitation, and the contents of Harris' proposal. We find that this series of questions does not state any adequate legal basis for protest.

Our Bid Protest Regulations require that a protest clearly state legally sufficient grounds of protest. 4 C.F.R. § 21.1(e) (1985). Swager's series of questions simply requests information about the circumstances of the

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procurement, the agency's reasons for its actions, and Harris' proposal. Such questions do not state a valid basis for protest because they contain no allegation of specific improper conduct by the agency that would provide a basis for legal objection to the procurement procedures followed. In this connection, we note that the protester has the burden of proving its case, and this Office does not conduct investigations for the purpose of establishing whether a protester may have a valid basis for protest. See William A. Stiles III--Reconsideration, B-215922.3, Feb. 19, 1985, 85-1 CPD ¶ 208.

Further, to the extent that Swager's correspondence can be read as raising specific bases of protest, we consider the issues raised to be untimely. For example, Swager contends that the model MW-10B transmitter offered by Harris is not suitable to Liberia's moist climate and that the Liberian government has had numerous unsolvable problems with Harris' transmitters in the past. Swager thus implies that Harris' transmitter cannot properly be considered as equal to the brand name transmitter specified in the solicitation. We consider this issue untimely because Swager indicates that it knew, prior to the request on September 9, 1985, for a second round of best and final offers, that the evaluation committee considered Harris' transmitter acceptable.<sup>1/</sup> Our regulations require that protests based on anything other than an apparent impropriety in a solicitation be filed within 10 working days after the basis of protest is known or should have been known. 4 C.F.R. § 21.2(a)(2). Swager has not satisfied that requirement here, as it did not file this protest until November 13, 1985.

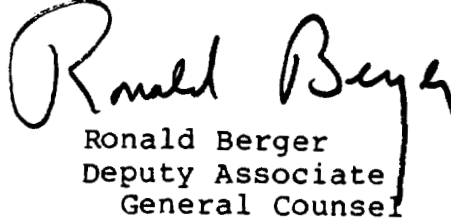
In addition, Swager contends that the agency should have awarded the contract under the original solicitation, or at the latest, after the first round of best and final offers. Swager obviously knew this basis for protest no later than the date the second round of best and final offers was requested. Therefore, this allegation also is untimely.

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<sup>1/</sup> After receipt of initial proposals, the agency informed Harris that the model MW-10B transmitter it offered was unacceptable. AID instructed Harris that it must propose an acceptable transmitter in its best and final offer. Harris did propose a substitute transmitter in its best and final offer, but also protested the agency's rejection of the model MW-10B to the agency and this Office. The protests were withdrawn after AID informed Harris that it considered the substitute transmitter acceptable. It thus appears that the transmitter found acceptable by the agency was not the model MW-10B, as the protester believes.

We note that Swager has recited a number of facts about the results of the agency's evaluation of Swager's proposal. The protester has not alleged, however, that its proposal was evaluated improperly. Accordingly, we find no basis for our review of the matter.

The protest is dismissed.

  
Ronald Berger  
Deputy Associate  
General Counsel